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IN THE

Supreme Court of the United States

October Term, 1974

No. 73-2016

LUIS ARANDA,

Petitioner,

v.

SUPREME COURT OF THE STATE OF ARIZONA AND THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS TO THE STATE BAR OF ARIZONA,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA AND THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS TO THE STATE BAR OF ARIZONA

PETITIONER'S REPLY MEMORANDUM

DePRIMA, ARANDA & de LEON
By: Anthony E. DePrima
3443 North Central Avenue
Suite 1511
Phoenix, Arizona 85012

Attorneys for Petitioner

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Respondents in their opposing brief have not answered the questions raised by Petitioner. On page 5 they allude to

the fact that a meeting was held and a decision reached to administer the Multistate Examination.

The record clearly shows that the Rule 28(c) VI and VIII was not amended until six (6) months after the July 1973 Bar Examination. Rule 28(a) mandates that the "examination and admission of applicants for membership in the State Bar of Arizona shall conform to this rule".

Respondent's deviation of Rule 28 (c) without the proper amendments affects Petitioner's substantive rights in violation of Arizona case law, *State v. Birmingham*, 95 Ariz. 310, 390 P.2d 103 (1964), and is without any rational basis.

Respondent's argument on page seven (7) is without merit because the December 18, 1973 Order can only be interpreted as nullifying the Multistate

Examination and *not* creating different classes. Therefore, with the Multi-state Examination null and void *the Essay must stand by itself*. The record clearly indicates that 21 applicants whose essay scores are below the required 70 and as low as 67.7, are already admitted, but, Petitioner is denied admission for no other reason except that his score is 69.4 and such action in fact creates *unequal* classes without any rational basis, see Appendix A-1 attached hereto and incorporated herein by reference.

Moreover, Respondents admit that no model answers have ever existed. Yet the record reflects that Petitioner requested model answers and/or the standard used to measure the questions and answers to the examination. This Court can only conclude that rather than conforming to accepted principles

of Tests and Measurements, instead, Bar Examination graders relied on a visceral reaction to each answer. Furthermore, there are indeed model answers available to the Multistate Examination, access to which have been denied Petitioner.

As to the grading scheme alluded to by Respondents, Petitioner can only cite a subsequent and similar case as Petitioner's before the Arizona Supreme Court, *Application of Donovan, et al*, (June 1974, SB-53) in the only opinion rendered by the Court, Justice Lockwood wrote in applicable part ". . . I am convinced that the Multi State Examination is not well enough developed to furnish adequate correlation with the State Essay Examination and should be discontinued until it is better adjusted." Also, the grading scheme is inconsistent with State law Rule 28(c)

VIII, Appendix A9 of Petition for Writ.

Respondents would have the restraints of the 14th Amendment limited only to cases involving issues of good character and moral fitness and such a position is untenable.

If Respondent's position is adopted indeed the July 1973 Bar Examination would remain without any semblance of objective criteria. By Respondents' own admissions on page 7 and 8 of the opposing brief, the July 1973 Bar Examination consisted of vague and shifting standards in violations of their own Rules, Rule 28(c) to which Respondents are bound to follow as a matter of law, Rule 28(a) and *Justice v. Board of Education*, 351 F.2d 1252.

Petitioner has the highest respect for the obligations of the Court below to regulate the admission of lawyers to the Arizona Bar. In perspective, however,

the sad truth of the matter is that Respondents have failed to demonstrate the rational basis for deviating from their own rules, State law and denial of due process and equal protection of the laws of Arizona to Petitioner.

In light of the inability of Respondents to face the issues presented in the Petition by merely glossing over significant facts, the need for plenary review of the action below is indisputable. Indeed Petitioner suggests that summary reversal is now in order.

Respectfully submitted,

ANTHONY E. DePRIMA

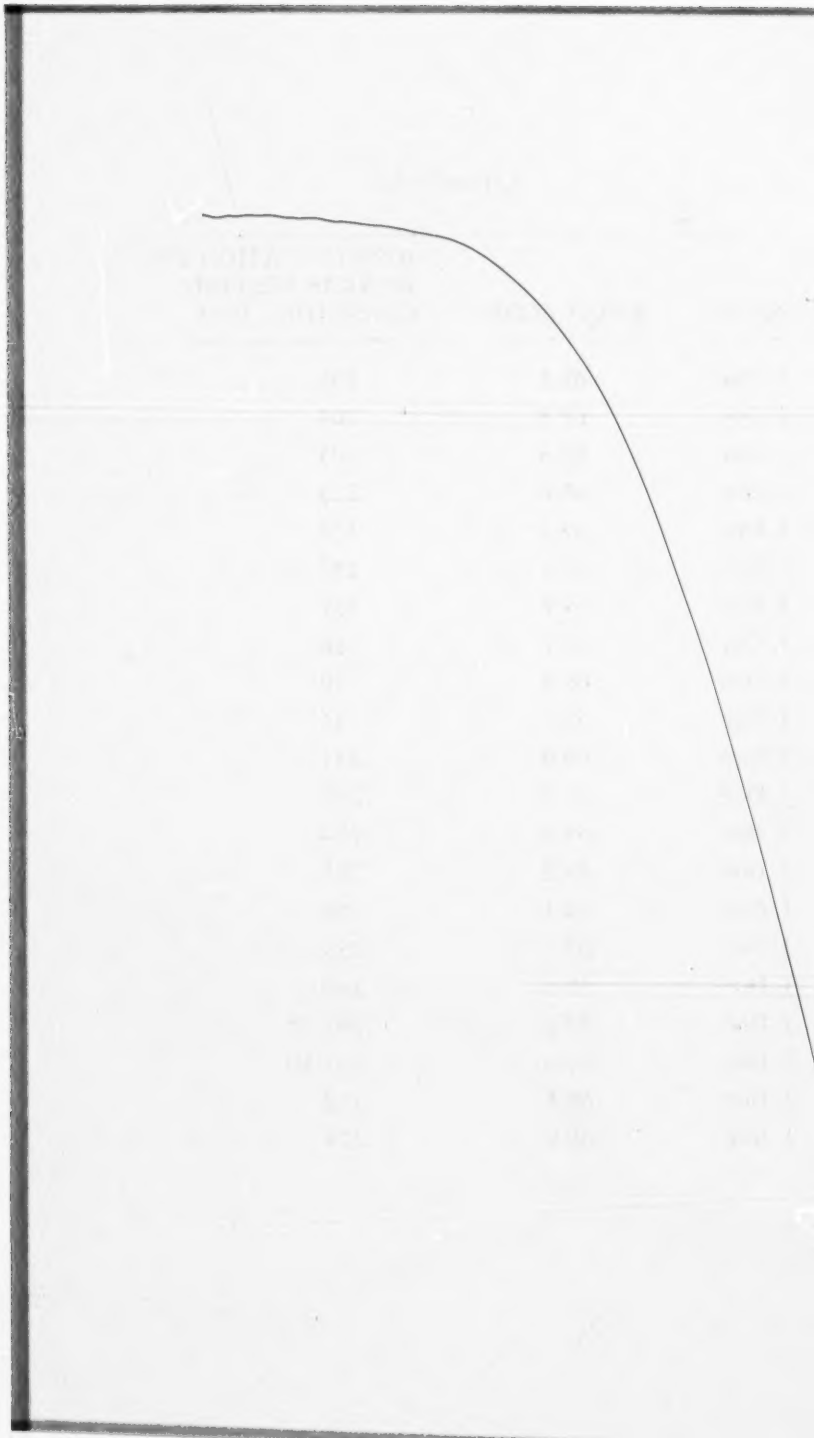
Counsel for Petitioner

DePRIMA, ARANDA & de LEON
3443 North Central Avenue
Suite 1511
Phoenix, Arizona 85012

August, 1974

Appendix A-1

NAME	ESSAY SCORE	IDENTIFICATION BY RANK IN TESTING CLASS JULY 1973
J. Doe	69.1	195
J. Doe	69.8	204
J. Doe	69.6	205
J. Doe	68.6	223
J. Doe	69.1	226
J. Doe	69.1	232
J. Doe	69.8	237
J. Doe	67.7	238
J. Doe	69.8	239
J. Doe	68.5	244
J. Doe	69.9	251
J. Doe	69.4	253
J. Doe	69.8	254
J. Doe	69.2	255
J. Doe	68.1	258
J. Doe	69.4	259
J. Doe	69.5	260
J. Doe	69.6	261.50
J. Doe	69.6	261.50
J. Doe	68.1	272
J. Doe	69.9	275



CERTIFICATE OF SERVICE

STATE OF ARIZONA)
) ss.
County of Maricopa)

I hereby certify that on this 21st day of August, 1974, three copies of the Petitioner's Reply Memorandum were mailed, postage prepaid, to Donald Daughton, 1840 First National Bank Plaza, 100 West Washington Street, Phoenix, Arizona 85003, Counsel for Respondents and to Warner Lee, The Attorney General, State of Arizona, Room 159 State Capitol Building, 1700 West Washington Street, Phoenix, Arizona 85007. I further certify that all parties required to be served have been served.

Anthony E. DePrima
3443 North Central Avenue
Suite 1511
Phoenix, Arizona 85012
Counsel for Petitioner